

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOANNE WOLFF, Individually and
on behalf of a Class of
Similarly Situated Individuals,

Plaintiff,

v.

AETNA LIFE INSURANCE COMPANY,
and THE RAWLINGS COMPANY, LLC,

Defendants.

CIVIL ACTION

No.

Document Electronically Filed

NOTICE OF REMOVAL

TO: UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PLEASE TAKE NOTICE that Defendants, Aetna Life Insurance Company (“Aetna”) and The Rawlings Company, LLC (“Rawlings”), hereby remove the above-captioned action from the Court of Common Pleas of Lycoming County, Pennsylvania, pursuant to 28 U.S.C. §§ 1331, 1332 and 1441, *et seq.*, and in support thereof aver as follows:

1. This action was commenced by the filing of a Civil Action Complaint in the Court of Common Pleas of Lycoming County, Pennsylvania on August 8, 2019, captioned *Joanne Wolff, Individually and on behalf of a Class of Similarly Situated Individuals v. Aetna Life Insurance Company and The Rawlings*

Company, LLC, and docketed at No. 19-1308. A copy of the Complaint is submitted as Ex. A.

2. Defendants' first notice of this action was on receipt of the Complaint via Federal Express on August 19, 2019.

3. It is alleged in the Complaint that Plaintiff's employer, Bank of America Corporation, sponsored a group long term disability benefits plan ("Group LTD Plan") as an employee benefit, which it funded through a group long-term disability insurance policy ("Group LTD Policy") issued by Aetna. Plaintiff's Complaint, ¶ 6 and Ex. A attached thereto.

4. The Complaint continues that Plaintiff, as a result of a temporary disability stemming from a motor vehicle accident, received disability benefits under the Group LTD Plan, which Defendants seek to recover from a personal injury settlement she has reached with the accident tortfeasor. *Id.*, ¶¶ 7-13.

5. Plaintiff claims that Defendants' demand for reimbursement from her tort settlement is improper under the law and the terms of the Group LTD Policy's right of recovery provisions, which she quotes at length in her Complaint and attaches as an exhibit. *Id.*, ¶¶ 14-16, 22-25, 34-36 and Ex. A.

6. In Counts III, IV and V of her five-count Complaint, Plaintiff asserts claims under the Employee Retirement Income Security Act of 1974 ("ERISA"), specifically under § 502(a)(1)(B) [29 U.S.C. § 1132(a)(1)(B)] in Count III,

§ 502(a)(3) [29 U.S.C. § 1132(a)] in Count IV and § 502(a)(1)(B) [29 U.S.C. § 1132(a)(1)(B)] *and* 502(a)(3) [29 U.S.C. § 1132(a)(3)] in Count V, as well as, under § 502(g) [29 U.S.C. § 1132(g)], in each of these counts.

7. Aetna and Rawlings are exercising their rights under the provisions of 28 U.S.C. § 1441, *et seq.*, to remove this action from the Court of Common Pleas of Lycoming County, Pennsylvania, in which this case is presently pending.

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1001, *et seq.*, and particularly, § 1132, as an area of exclusive federal concern over which federal law governs.

9. ERISA claims filed in state court are subject to removal to federal court, particularly where the ERISA federal question is clear on the face of the Complaint, as here.

10. Under 28 U.S.C. § 1331 federal courts are granted original subject matter jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” In turn, 28 U.S.C. § 1441(b) authorizes removal to federal court of actions over which federal courts would have original jurisdiction.

11. The present lawsuit is removable from the state court to this Court on diversity grounds, as well, pursuant to 28 U.S.C. § 1332(a)(1) and § 1441(a), because the controversy in this action is between Plaintiff, a citizen of the Commonwealth of Pennsylvania, and Aetna and Rawlings, both citizens of foreign

states. Diversity is established as follows:

- (a) Joanne Wolff resides at 2032 Corinthian Avenue, Abington, PA 19001 and is, therefore, a citizen of the Commonwealth of Pennsylvania;
- (b) Aetna is a Connecticut corporation, with its principal place of business at 151 Farmington Avenue, Hartford, CT 06156; and
- (c) The Rawlings Company, LLC is a limited liability company formed under the laws of Kentucky, with its principal place of business at 1 Eden Parkway, LaGrange, KY 40031.

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, because there is diversity of citizenship and because the allegations of the Complaint, including the damages sought by Plaintiff, reveal that the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Plaintiff's Complaint, ¶¶ 9, 15 and 51.

13. Pursuant to the provisions of 28 U.S.C. § 1446(a) Aetna and Rawlings have submitted herewith, and incorporate by reference, a copy of all process and pleadings served upon them in this action, *i.e.*, the Plaintiff's Complaint, with its attached exhibit. *See* Ex. A.

14. This Notice of Removal is timely in accordance with the requirements of 28 U.S.C. § 1446(b) as it has been filed within thirty (30) days after service of the Complaint.

15. Aetna and Rawlings shall provide prompt notice of the filing of this Notice of Removal to Plaintiff as required by 28 U.S.C. § 1446(d).

16. Aetna and Rawlings shall also file a copy of this Notice with the Prothonotary of the Court of Common Pleas of Lycoming County, Pennsylvania, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants, Aetna Life Insurance Company and The Rawlings Company, LLC, advise that the action presently pending in the Court of Common Pleas of Lycoming County, Pennsylvania, is hereby removed to the United States District Court for the Middle District of Pennsylvania.

WHITE AND WILLIAMS LLP

By: _____


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Dated: September 16, 2019